

HARDY AND CAREY, L.L.P.  
ATTORNEYS AT LAW  
110 VETERANS BOULEVARD  
SUITE 300  
METAIRIE, LOUISIANA 70005  
TELEPHONE: 504-830-4646  
TELEFAX 504-830-4659

DOCKET FILE COPY ORIGINAL

January 7, 2000

2430.002

by: Hand

Ms. Magalie Roman Salas, Secretary  
Federal Communications Commission  
Washington, D.C. 20554

RECEIVED

JAN - 7 2000

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: MM DOCKET NO. 99-329  
RM-9701  
Amendment of Section 73.202(b)  
(Avalon, Fountain Valley, Adelanto,  
Ridgecrest and Riverside, California)

**COMMENTS OF AMATURO GROUP OF L.A., LTD.**

Dear Ms. Salas:

On behalf of Amaturro Group of L.A., Ltd. ("Amaturro"), I herewith file an original and four copies of the COMMENTS OF AMATURO GROUP OF L.A., LTD.

Amaturro filed the Petition for Rule Making which commenced this proceeding. In accord with Commission policy, the attached Comments restate Amaturro's commitment to proceed. Moreover, the Comments provide certain items requested in the NPRM.

As always, please feel free to call me with any questions you might have. Additionally, I would be appreciative if a copy of any correspondence regarding this matter would be directed to my attention. With the best of personal regards, I am

Sincerely yours,

  
Bradford D. Carey

A:\AmaturroCom\CLRI.wpd

No. of Copies rec'd \_\_\_\_\_  
List A B C D E \_\_\_\_\_

074

Before the  
Federal Communications Commission  
Washington, D.C. 20554

RECEIVED

JAN - 7 2000

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of

Amendment of Section 73.202(b)

Table of Allotments,

FM Broadcast Stations.

(Avalon, Fountain Valley, Adelanto,

Ridgecrest and Riverside, California)

MM Docket No. 99-329

RM-9701

To: Chief, Allocations Branch:

**COMMENTS OF AMATURO GROUP OF L.A., LTD.**

Respectfully submitted by  
Amaturo Group of L.A., Ltd.

by its Counsel,

Bradford D. Carey, Esq.  
Ashton R. Hardy, Esq.  
Hardy & Carey, L.L.P.  
110 Veterans Blvd., Suite 300  
Metairie, LA 70005

(504) 830-4644

Dated as of January 7, 2000

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Amendment of Section 73.202(b)	)	MM Docket No. 99-329
Table of Allotments,	)	RM-9701
FM Broadcast Stations.	)	
(Avalon, Fountain Valley, Adelanto,	)	
Ridgecrest and Riverside, California)	)	

To: Chief, Allocations Branch:

**COMMENTS OF AMATURO GROUP OF L.A., LTD.**

The Amaturro Group of L.A., Ltd. ("Amaturro" or "petitioner"), licensee of Stations KLIT, Channel 224A, Avalon, as well as Station KELT, Channel 224A, Riverside, California, and KMLT, Channel 224A, Thousand Oaks, California hereby states its **Comments**<sup>1</sup> in response to the **Notice of Proposed Rule Making** in this proceeding which was adopted November 10, 1999 and Released: November 19, 1999 ("Notice" or "NPRM").<sup>2</sup>

**I. AMATURO SEEKS TO PROVIDE TWO COMMUNITIES THEIR FIRST LOCAL SERVICE.**

Amaturro seeks the reallocation of Channel 224A from Avalon to Fountain Valley, as that community's first local aural transmission service and modification of the license of Station KLIT accordingly, as well as the reallocation of Channel 224A from Riverside to Adelanto, California, as that community's first local FM service, and accompanying modification of the license of Station KELT. Additionally, to accommodate its proposal,

---

<sup>1</sup>In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of these Comments are being filed.

<sup>2</sup>The NPRM set the comment date as January 10, 2000. These comments are being filed on or before January 10, 2000 and are, therefore, timely. As the petitioner, Amaturro has standing to file these Comments.

petitioner requests the substitution of Channel 224A for Channel 224B1 at Ridgecrest at a newly specified transmitter site and modification of the license of Station KZIQ-FM, as well as a change in the reference coordinates of Station KMLT, Channel 224A, Thousand Oaks, California, to avoid a short spacing to the proposed reallocation of Channel 224A to Fountain Valley, California.

**II. COMPETING EXPRESSIONS OF INTEREST MAY NOT BE ACCEPTED.**

Amaturo, as the petitioner, has invoked the provisions of Section 1.420(i) of the Commission's Rules which permits the modification of a station's authorization to specify a new community of license without affording other interested parties an opportunity to file competing expressions of interest. *See Modification of FM and TV Authorizations to Specify a New Community of License ("Change of Community R&O")*, 4 FCC Rcd 4870 (1989), *recon. granted in part "Change of Community MO&O")*, 5 FCC Rcd 7094 (1990). In support of the proposal, Amaturo demonstrated in its Petition for Rule Making ("Petition") that the requested reallocations to Fountain Valley (population 53,691),<sup>3</sup> and Adelanto, California (population 8,517), are each mutually exclusive with their present allocations at Avalon and Riverside.

**III. THE LICENSEE OF KZIQ-FM HAS CONSENTED TO THE CHANGES.**

Amaturo's Petition demonstrated that James L. and Donna L. Knudsen, the licensee of Station KZIQ-FM, Channel 224B1, Ridgecrest, has consented to the requested downgrade at that community, provided the other modifications sought herein are granted, and Amaturo supplied a copy of their consent statement.

---

<sup>3</sup> Population figures reported herein were taken from the 1990 U.S. Census Reports, as set forth in the NPRM.

**IV. A PREFERENTIAL ARRANGEMENT OF ALLOTMENTS WILL RESULT.**

In further support of its proposal, petitioner demonstrated in the Petition that the requested reallocations will result in a preferential arrangement of allotments (*Change of Community R&O* at 4873), as it will provide a first local aural transmission facility to each of the incorporated communities of Fountain Valley and Adelanto,<sup>4</sup> without depriving either Avalon or Riverside of local service.<sup>5</sup>

**V. THE PROPOSAL WILL PROVIDE AN ADDITIONAL SERVICE, NET OF LOSSES, TO MORE THAN 1.4 MILLION PERSONS.**

The requested reallocations will not create any white or gray areas and will add service to in excess of 2.3 million persons. Although 900,000 persons will lose service, the Petition demonstrated that they will still receive service from five or more aural services with the exception of 107 people who will continue to receive four aural services. The Petition further demonstrated that these minimal losses are off-set by the overall gains (182 persons will gain a fourth service and 506 people will gain their fifth aural service).

---

<sup>4</sup> The Petition established that neither Fountain Valley nor Adelanto is part of an urbanized area, and therefore no issues relative to the movement of service to an urbanized area are presented. Further, Amaturo provided demographic information concerning Fountain Valley and Adelanto to establish that each of those incorporated communities are self-contained. Therefore, even if Fountain Valley and Adelanto were part of an urbanized area, it would not have a negative impact on the instant proposal as the public interest is furthered by the allotment of a station to a community that is distinct from the urbanized area's core. See Canovanas, etc., Virgin Islands, 8 CR 1169 (1997).

<sup>5</sup> In this regard, Avalon will continue to receive local service provided by Station KISL(FM), Channel 204A and Station KBRT(AM). Riverside will continue to receive local service provided by Stations KUCR, Channel 202A, KSGN, Channel 209A, KSSE, Channel 248B, KGGI, Channel 256B, as well as AM Stations KDIF and KPRO.

As set forth in the NPRM, the Commission's staff engineering review of the proposal indicated that the loss area for Station KLIT at Avalon contains 3,317 people and encompasses an area of 145 square kilometers, whereas the gain area at Fountain Valley contains 2,141,438 people and covers 1,292 square kilometers. Therefore, this aspect of the petitioner's proposal would produce a net gain of 2,138,121 people within an area of 1,147 square kilometers. The NPRM also set forth that the Commission's review also confirmed that the loss and gain areas are served by at least five existing full-time aural services; the loss area for Station KELT, Riverside, contains 819,012 people in an area of 2,343 square kilometers; the gain area at Adelanto contains 127,694 people also within an area of 2,343 square kilometers; and that the loss areas are served by at least five existing full-time aural services.

**VI. A TUCK ANALYSIS IS NOT REQUIRED.**

As set forth in the NPRM, a Tuck analysis is not required for the communities of Fountain Valley and Adelanto.<sup>6</sup>

**VII. MORE THAN 1.5 MILLION PEOPLE WILL CEASE TO RECEIVE INTERFERENCE.**

Amaturo's proposal also will eliminate grandfathered short spacings between Stations KLIT, Avalon and KMLT, Thousand Oaks, as well as between Station KELT and KXFG, Channel 225A, Sun City, California, and Station KKUU, Channel 224A, Indio, California, resulting in the removal of interference to more than 1.5 million people.

---

<sup>6</sup> See Huntington Broadcasting Co. v. FCC, 192 F.2d 33 (D.C. Cir. 1951), RKO General, Inc., 5 FCC Rcd 3222 (1990), and Faye and Richard Tuck, 3 FCC Rcd 5374 (1988).

**VIII. THE KZIQ-FM LICENSEE HAS CONSENTED TO THE DOWNGRADE OF KZIQ-FM AND THE MOVE OF ITS TRANSMITTER SITE.**

Amaturo demonstrated in its Petition that the licensee of Station KZIQ-FM, Channel 224B1, Ridgecrest, has consented to the proposed downgrade at that community to accommodate the proposed reallocation of Channel 224A from Riverside to Adelanto, California.

In the NPRM, the Commission noted that it is necessary for the licensee of KZIQ-FM to relocate its transmitter to a site located 1.5 kilometers west of the community at coordinates 35-37-27 NL; 117-41-10 WL, as proposed by Amaturo. The NPRM also asserted that “absent a statement from the licensee indicating its willingness to change its site, we will not entertain an involuntary change in the transmitter site of Station KZIQ-FM. Therefore, petitioner is required to provide a notarized statement from the licensee of Station KZIQ-FM indicating its consent to relocate its transmitter consistent with the petitioner’s proposal.” The NPRM indicated that the Commission would serve the licensee of Station KZIQ-FM with a copy of the NPRM.

In preparing its Petition, Amaturo had contemplated that its stated undertakings and the written consent of the Licensee of KZIQ-FM to the down-grade in accord with Amaturo’s Petition demonstrated the consent of the Licensee to the transmitter site change specified in the Petition. In accord with the NPRM, attached to these Comments of Amaturo, as Exhibit One, is a notarized statement from the licensee of Station KZIQ-FM affirming its consent to relocate its transmitter consistent with the petitioner’s proposal.

**IX. THE COMMISSION'S REQUIREMENTS TO AMEND THE TABLE OF ALLOTMENTS HAVE BEEN FULFILLED AND THE PUBLIC INTEREST WOULD BE FURTHERED BY GRANT OF THE PROPOSAL.**

As set forth above, Exhibit One hereto is a notarized statement from the licensee of Station KZIQ-FM affirming its consent to relocate its transmitter consistent with the petitioner's proposal. Thus, that requirement stated in the NPRM is fulfilled.

Additionally, the NPRM recited that "Commission policy requires reimbursement to Station KZIQ-FM for the reasonable costs incurred in changing frequencies as well those expenses associated with a change in its transmitter site, as requested by the petitioner, citing Circleville, Ohio, 8 FCC 2d 159 (1976)".

Amaturo has committed and hereby again pledges and commits to the Commission that if the reallocation proposals under consideration in this proceeding are granted as sought by Amaturo, Amaturo will pay reimbursement to the licensee of Station KZIQ-FM for the costs incurred in changing frequencies as well those expenses associated with a change in its transmitter site, as requested by the petitioner, as contemplated by Circleville, Ohio, 8 FCC 2d 159 (1976)". The notarized Affidavit of Joseph Amaturo, General Partner in Amaturo Group of L.A., Ltd., affirming Amaturo's commitment that the Amaturo Group of L.A. Ltd., will fully reimburse the licensee of KZIQ-FM is attached hereto as Exhibit Two.

Amaturo's proposal would provide a first local aural transmission service to Fountain Valley and to Adelanto, California, (priority three) whereas Avalon and Riverside will each retain local service (priority four). Therefore, grant of the Petition would further the public interest.

Amaturo's modification request is consistent with the provisions of Section 1.420(i) of the Commission's Rules; therefore, the Commission may not accept competing expressions of interest in the use of Channel 224A at Fountain Valley or at Adelanto. Amaturo is herewith supplying the "additional information as set forth in paragraph 6" of the NPRM to support the downgrade and site change of Station KZIQ-FM, Ridgecrest, California, to specify operation on Channel 224A.

Channel 224A can be allotted to Fountain Valley in conformity with the minimum distance separation requirements of Section 73.207(b) of the Commission's Rules at Amaturo's specified site; Channel 224A can be allotted to Adelanto at Amaturo's specified site; and the reference coordinates for Station KMLT, Channel 224A, Thousand Oaks, California, can be changed in accord with the Petition.

Moreover, the proposed downgrade to Channel 224A at Ridgecrest can be utilized at Amaturo's proposed site for Station KZIQ-FM.

**X. THE PROPOSAL IS IN THE PUBLIC INTEREST.**

The public interest will be furthered by adoption of the amendment to the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, with regard the communities listed below, as requested by Amaturo in the Petition:

	<u>Channel No.</u>	
	<u>Present</u>	<u>Proposed</u>
Adelanto, California	—	224A
Avalon, California	224A	--
Fountain Valley, California	--	224A
Ridgecrest, California	224B1, 285B1	224A, 285B1 <sup>7</sup>
Riverside, California	224A, 248B, 256B	248B, 256B

---

<sup>7</sup>Subsequent to Amaturo filing its Petition in the instant proceeding, the Commission issued an NPRM seeking comment on a proposal to amend this allotment. Population counts in the Petition, the NPRM for this proceeding, and in these Comments are without regard to that or other pending proposals.

**XI. AMATURO'S COMMITMENT IS CONTINUING.**

Amaturo, the proponent of the proposed allotment hereby states its continuing interest and incorporates by reference its former pleadings in support of its proposal. It also hereby restates its present intention to apply for construction permits on the channels if they are allotted and, if authorized, to build a stations on the amended allotments promptly, and to operate stations on the new allotments. The continuing commitment of the licensee of KZIQ-FM to down-grade of its allotment and move of its transmitter site is also well demonstrated.

**XII. CONCLUSION: THE PROPOSALS SHOULD BE ADOPTED.**

In conclusion, Amaturio Group of L.A., Ltd. respectfully submits that it has made all of the showings specified in the NPRM and the Commission's Rules and Regulations. The public interest benefits are manifest, as set out in Amaturio's Petition, the NPRM, and Amaturio's Comments, which briefly summarized include the following public interest considerations:

**First Local Service for Two Communities.**

Two communities will gain their first local transmission service, while no community that has local service will be left without it.

**A Net Gain of a Reception Service by More Than 1.3 Million Persons Will Result.**

The requested reallocations will not create any white or gray areas and will add service to in excess of 2.3 million persons. Although 900,000 persons will lose service, the Petition demonstrated that they will still receive service from five or more aural services with the exception of 107 people who will continue to receive four aural services. The Petition further demonstrated that these minimal losses are off-set by the overall gains (182 persons will gain a fourth service and 506 people will gain their fifth aural service).

**Interference Will Be Removed From 1.5 Million Persons.**

Amaturio's proposal also will eliminate grandfathered short spacings between Stations KLIT, Avalon and KMLT, Thousand Oaks, as well as between Station KELT and KXFG, Channel 225A, Sun City, California, and Station KKUU, Channel 224A, Indio, California, resulting in the removal of interference to more than 1.5 million people.

In view of the foregoing, the Amaturo Group of L.A., Ltd. urges that the Commission adopt an Order amending Section 73.202(b) the, Table of Allotments, FM Broadcast Stations as sought by Amaturo.

Respectfully submitted,

Amaturo Group of L.A., Ltd.

by its Counsel,

A handwritten signature in black ink, appearing to read "Bradford D. Carey", written over a horizontal line.

Bradford D. Carey, Esq.  
Ashton R. Hardy, Esq.  
Hardy & Carey, L.L.P.  
110 Veterans Blvd., Suite 300  
Metairie, LA 70005

(504) 830-4644

Dated as of January 7, 2000

CERTIFICATE OF SERVICE

I, BRADFORD D. CAREY, a(n) Partner in the law firm of Hardy & Carey, L.L.P. do hereby certify under the penalty of perjury under the laws of the United States of America that a copy of the foregoing Comments have been mail, United States First Class Postage prepaid on this 7 day of January, 2000 to the following:

James L. and Donna L. Knudsen  
Radio Station KZIQ-FM  
121 West Ridgecrest Blvd.  
Ridgecrest, CA 93555

and by hand to drop-off for

John A. Karousos  
Chief, Allocations Branch  
Policy and Rules Division  
Mass Media Bureau  
Federal Communications Commission  
at  
445 Twelfth Street, S.W.; TW-A325,  
Washington, D.C. 20554.

EXHIBIT ONE  
Affidavit of  
James L. AND DONNA  
KNUDSEN

LICENSEE OF KZIQ-FM

**AFFIDAVIT**

STATE OF CALIFORNIA

County OF Kern  
(city/township/county)

)  
)  
)  
)

**BE IT KNOWN**, that before me, the undersigned Notary Public, this  
28<sup>th</sup> day of December, 1999 personally came and appeared:

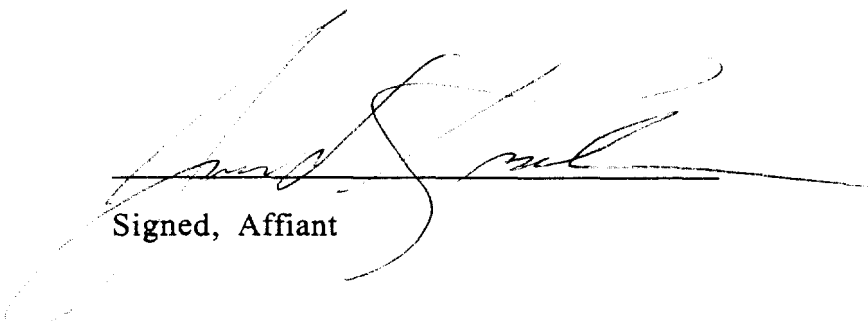
James L. Knudsen (hereinafter sometimes referred to as  
"Affiant") who, after being duly sworn did depose and state the following:

1. Affiant is a Partner in JAMES L. KNUDSEN & DONNA KNUDSEN ("Knudsen"), the Licensee of Broadcast Station KZIQ-FM, Ridgecrest, California.
2. JAMES L. KNUDSEN & DONNA KNUDSEN ("Knudsen"), the Licensee of Broadcast Station KZIQ-FM, Ridgecrest, California, by the undersigned authorized Partner, hereby re-affirms Knudsen's consent to the down-grade of the allotment on which station KZIQ-FM operates from channel 224B1 to channel 224A as part of the proposal by Amaturio Group of L.A., Ltd ("Amaturio") to amend 47 C.F.R. §73.202(b), the Table of Allotments of FM Broadcast Stations, to reallocate channel 224A from Avalon to Fountain Valley, California and channel 224A from Riverside to Adelanto, California.

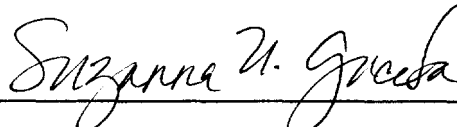
3. If the allotment is down-graded as part of an order granting the changes to the Table of Allotments, FM Broadcast Stations, sought by Amaturro, an application for a construction permit to build facilities in accord with the amended table of allotments will be filed by the Licensee, and if the permit is granted, the facilities will be constructed and operated.
4. In accord with the **Notice of Proposed Rule Making** in MM Docket No. 99-329 (the "NPRM") 64 Fed. Reg. 68665 (December 8, 1999), Knudsen states, its "consent" and "willingness to change its site" and commits, affirms and re-affirms that it will change the site for the transmitter of Station KZIQ-FM in accord with Amaturro's proposed changes as specified in the Petition for Rule Making (the "Petition") and as set forth in the NPRM.
5. Knudsen commits to take all actions described in, or otherwise required or appropriate to implement the proposals of, the NPRM, a copy of which is attached hereto.
6. Knudsen's consent to the down-grade of the Ridgecrest allotment on which KZIQ-FM operates and to move the KZIQ-FM transmitter site is specifically conditioned on, and given to facilitate, grant by the Commission of the amendments to the Table of FM Allotments sought by Amaturro.

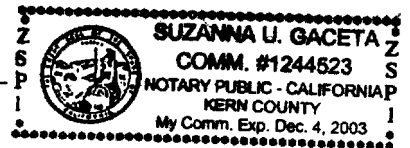
7. Knudsen believes, and again urges, that the public interest would be served by the amendment of the Table of Allotments of FM Broadcast Stations proposed by Amaturro, and respectfully urges that the Commission issue an Order amending the Table of Allotments as proposed by Amaturro.

Furthermore, Affiant sayeth not.

  
Signed, Affiant

**SWORN TO AND SUBSCRIBED**, before me the undersigned Notary Public  
in the City of Ridgecrest, California on the  
above date.

  
NOTARY PUBLIC



T:\2430.002\991221AFIr7.wpd

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of	)	
	)	
Amendment of Section 73.202(b)	)	MM Docket No. 99-329
Table of Allotments,	)	RM-9701
FM Broadcast Stations.	)	
(Avalon, Fountain Valley, Adelanto,	)	
Ridgecrest and Riverside, California)	)	

## NOTICE OF PROPOSED RULE MAKING

Adopted: November 10, 1999

Released: November 19, 1999

Comment Date: January 10, 2000

Reply Comment Date: January 25, 2000

By the Chief, Allocations Branch:

1. Before the Commission for consideration is a petition for rule making filed on behalf of Amaturo Group of L.A., Ltd. ("petitioner"), licensee of Stations KLIT, Channel 224A, Avalon, as well as Station KELT, Channel 224A, Riverside, California, and KMLT, Channel 224A, Thousand Oaks, California. Petitioner seeks the reallocation of Channel 224A from Avalon to Fountain Valley, as that community's first local aural transmission service and modification of the license of Station KLIT accordingly, as well as the reallocation of Channel 224A from Riverside to Adelanto, California, as that community's first local FM service, and accompanying modification of the license of Station KELT. Additionally, to accommodate its proposal, petitioner requests the substitution of Channel 224A for Channel 224B1 at Ridgecrest at a newly specified transmitter site and modification of the license of Station KZIQ-FM, as well as a change in the reference coordinates of Station KMLT, Channel 224A, Thousand Oaks, California, to avoid a short spacing to the proposed reallocation of Channel 224A to Fountain Valley, California.

2. Petitioner seeks to invoke the provisions of Section 1.420(i) of the Commission's Rules which permits the modification of a station's authorization to specify a new community of license without affording other interested parties an opportunity to file competing expressions of interest. *See Modification of FM and TV Authorizations to Specify a New Community of License ("Change of Community R&O")*, 4 FCC Rcd 4870 (1989), *recon. granted in part "Change of Community MO&O"*, 5 FCC Rcd 7094 (1990). In support of the proposal petitioner states that the requested reallocations to Fountain Valley (population 53,691),<sup>1</sup> and Adelanto, California (population 8,517), are each mutually exclusive with their present allotments at Avalon and Riverside. Moreover, petitioner asserts that James L. and Donna L. Knudsen, the licensee of Station KZIQ-FM, Channel 224B1, Ridgecrest, has consented to the requested downgrade at that community, provided the other modifications sought herein are granted, and supplied a copy of their consent statement.

<sup>1</sup> Population figures reported herein were taken from the 1990 U.S. Census Reports.

3. In further support of its proposal, petitioner remarks that the requested reallocations will result in a preferential arrangement of allotments (*Change of Community R&O* at 4873), as it will provide a first local aural transmission facility to each of the incorporated communities of Fountain Valley and Adelanto,<sup>2</sup> without depriving either Avalon or Riverside of local service.<sup>3</sup> Further petitioner states that the requested reallocations will not create nor eliminate any white or gray areas. Additionally, petitioner advises that its proposal will add service to in excess of 2.3 million persons. Although 900,000 persons will lose service, petitioner reports that they will still receive service from five or more aural services with the exception of 107 people who will continue to receive four aural services. However, petitioner maintains that these minimal losses are off-set by the overall gains (182 persons will gain a fourth service and 506 people will gain their fifth aural service). Moreover, petitioner advises that its proposal will eliminate grandfathered short spacings between Stations KLIT, Avalon and KMLT, Thousand Oaks, as well as between Station KELT and KXFG, Channel 225A, Sun City, California, and Station KKUU, Channel 224A, Indio, California, resulting in the removal of interference to more than 1.5 million people.

4. A staff engineering review of the proposal reveals that the loss area for Station KLIT at Avalon contains 3,317 people and encompasses an area of 145 square kilometers, whereas the gain area at Fountain Valley contains 2,141,438 people and covers 1,292 square kilometers. Therefore, this aspect of the petitioner's proposal would produce a net gain of 2,138,121 people within an area of 1,147 square kilometers. Our review also confirms that the loss and gain areas are served by at least five existing full-time aural services. Additionally, the loss area for Station KELT, Riverside, contains 819,012 people in an area of 2,343 square kilometers. The gain area at Adelanto contains 127,694 people also within an area of 2,343 square kilometers. While the latter produces a net loss of service to 691,318 people, both the loss and gain areas are served by at least five existing full-time aural services.

5. Further, our analysis also reveals that while Avalon is not within an urbanized area, the proposed reallocation of Channel 224A to Fountain Valley, will provide coverage to 7.8% of the Los Angeles, urbanized area. We also find that the proposed reallocation of Channel 224A to Adelanto would provide coverage to 13.4% of the Hesperia-Apple Valley-Victorville, California, urbanized area, whereas its present allotment at Riverside provides service to 25.3% of the Riverside-San Bernardino, California, urbanized area. Based upon the small degree of 70 dBu

---

<sup>2</sup> Petitioner states that neither Fountain Valley nor Adelanto is part of an urbanized area, and therefore no issues relative to the movement of service to an urbanized area are presented. In support of its assertion petitioner provided demographic information concerning Fountain Valley and Adelanto to establish that each of those incorporated communities are self-contained. Therefore, petitioner asserts that even if Fountain Valley and Adelanto were part of an urbanized area, it would not have a negative impact on the instant proposal as the public interest is furthered by the allotment of a station to a community that is distinct from the urbanized area's core, citing *Canovanas, etc., Virgin Islands*, 8 CR 1169 (1997).

<sup>3</sup> In this regard, petitioner advises that Avalon will continue to receive local service provided by Station KISL(FM), Channel 204A and Station KBRT(AM). Riverside will continue to receive local service provided by Stations KUCR, Channel 202A, KSGN, Channel 209A, KSSE, Channel 248B, KGGI, Channel 256B, as well as AM Stations KDIF and KPRO.

coverage the proposed reallocations would provide, a Tuck analysis is not required for the communities of Fountain Valley and Adelanto.<sup>4</sup>

6. As the licensee of Station KZIQ-FM, Channel 224B1, Ridgecrest, has consented to the proposed downgrade at that community to accommodate the proposed reallocation of Channel 224A from Riverside to Adelanto, California, the issuance of an Order to Show Cause is not required. However, we have no indication that it is willing to relocate its transmitter to a site located 1.5 kilometers west of the community at coordinates 35-37-27 NL; 117-41-10 WL, as proposed by the petitioner. As the relocation is required to comply with the minimum distance separation requirements of Section 73.207(b) of the Commission's Rules, absent a statement from the licensee indicating its willingness to change its site, we will not entertain an involuntary change in the transmitter site of Station KZIQ-FM. Therefore, petitioner is required to provide a notarized statement from the licensee of Station KZIQ-FM indicating its consent to relocate its transmitter consistent with the petitioner's proposal. We shall also serve the licensee of Station KZIQ-FM with a copy of this Notice. Additionally, Commission policy requires reimbursement to Station KZIQ-FM for the reasonable costs incurred in changing frequencies as well those expenses associated with a change in its transmitter site, as requested by the petitioner. See Circleville, Ohio, 8 FCC 2d 159 (1976). Petitioner did not provide the requisite reimbursement commitment in its proposal and is requested to do so in response to this Notice. Failure to do so will result in a denial of the proposal.

7. In consideration of the above, and on a comparative basis, the petitioner's proposal would provide a first local aural transmission service to Fountain Valley and to Adelanto, California, (priority three) whereas Avalon and Riverside will each retain local service (priority four). Therefore, we will propose to reallocate Channel 224A from Avalon to Fountain Valley, California, and modify the petitioner's license for Station KLIT accordingly. Additionally, we will propose to reallocate Channel 224A from Riverside to Adelanto, California, and modify the license for Station KELT, as requested. As the petitioner's modification request is consistent with the provisions of Section 1.420(i) of the Commission's Rules, we will not accept competing expressions of interest in the use of Channel 224A at Fountain Valley or at Adelanto. We will also propose to downgrade Station KZIQ-FM, Ridgecrest, California, to specify operation on Channel 224A, contingent upon the provision of additional information as set forth in paragraph 6, above.

8. Channel 224A can be allotted to Fountain Valley in conformity with the minimum distance separation requirements of Section 73.207(b) of the Commission's Rules at the petitioner's specified site located 9.9 kilometers (6.1 miles) south of the community at coordinates 33-36-56 NL; 117-55-33 WL; Channel 224A can be allotted to Adelanto at the petitioner's specified site located 8.9 kilometers (5.5 miles) west of the community at coordinates 34-36-11; 117-28-01. We shall also propose to revise the reference coordinates for Station KMLT, Channel 224A, Thousand Oaks, California, to 34-13-05 NL; 118-56-42 WL. The proposed downgrade to Channel 224A at Ridgecrest can be utilized at the petitioner's proposed site for Station KZIQ-FM, located 1.5 kilometers west of the community at coordinates 35-37-27 NL; 117-41-10 WL. Additionally, as Fountain Valley and Adelanto, California, are both located within 320 kilometers (199 miles) of the

<sup>4</sup> See Huntington Broadcasting Co. v. FCC, 192 F.2d 33 (D.C. Cir. 1951), RKO General, Inc., 5 FCC Rcd 3222 (1990), and Faye and Richard Tuck, 3 FCC Rcd 5374 (1988).

U.S.-Mexico border, the Commission will seek concurrence of the Mexican government to the proposed allotments.

9. In view of the above, we seek comments on the proposed amendment to the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, with regard the communities listed below, as follows:

	<u>Present</u>	<u>Channel No.</u> <u>Proposed</u>
Adelanto, California	--	224A
Avalon, California	224A	--
Fountain Valley, California	--	224A
Ridgecrest, California	224B1, 285B1	224A, 248B, 256B
		248B, 256B

10. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

11. Interested parties may file comments on or before January 10, 2000, and reply comments on or before January 25, 2000, and are advised to read the Appendix for the proper procedures. Comments should be filed with the Federal Communications Commission, Office of the Secretary, 445 Twelfth Street, S.W.; TW-A325, Washington, D.C. 20554. Additionally, a copy of such comments should be served on the petitioner's counsel, as follows:

Bradford D. Carey, Esq.  
Ashton R. Hardy, Esq.  
Hardy & Carey, LLP  
110 Veterans Memorial Blvd.  
Suite 300  
Metairie, LA 70005

12. IT IS ORDERED, That the Secretary SHALL SEND a copy of this Notice of Proposed Rule Making to the licensee of Station KZIQ-FM, Ridgecrest, California, as follows:

James L. and Donna L. Knudsen  
Radio Station KZIQ-FM  
121 West Ridgecrest Blvd.  
Ridgecrest, CA 93555

13. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of

Allotments, Section 73.202(b) of the Commission's Rules. See Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), and 73.606(b) of the Commission's Rules, 46 FR 11549, February 9, 1981.

14. For further information concerning this proceeding, contact Nancy Joyner, Mass Media Bureau, (202) 418-2180. For purposes of this restricted notice and comment rule making proceeding, members of the public are advised that no ex parte presentations are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the proceeding has been decided and such decision is no longer subject to reconsideration by the Commission or review by any court. An ex parte presentation is not prohibited if specifically requested by the Commission or staff for the clarification or adduction of evidence or resolution of issues in the proceeding. However, any new written information elicited from such a request or a summary of any new oral information shall be served by the person making the presentation upon the other parties to the proceeding unless the Commission specifically waives this service requirement. Any comment which has not been served on the petitioner constitutes an ex parte presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an ex parte presentation and shall not be considered in the proceeding.

#### FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos  
Chief, Allocations Branch  
Policy and Rules Division  
Mass Media Bureau

Attachment: Appendix

**EXHIBIT TWO**  
**Affidavit of**  
**JOSEPH AMATURO**

**GENERAL PARTNER,  
AMATURO GROUP OF L.A., LTD.**

# AFFIDAVIT

STATE OF FLORIDA

County \_\_\_\_\_ OF Broward \_\_\_\_\_  
(city/township/county)

)  
)  
)  
)  
)

BE IT KNOWN, that before me, the undersigned Notary Public, this  
3rd day of January, 2000 personally came and appeared:

Joseph Amaturro (hereinafter sometimes referred to as "Affiant") who, after being  
duly sworn did depose and state the following:

1. Affiant is a General Partner in the Amaturro Group of L.A., Ltd, the Licensee  
of Broadcast Stations KLIT, Avalon; KELT, Riverside; and, KMLT, Thousand  
Oaks, California ("Amaturro").
2. Pending before the Commission is a Petition filed by Amaturro to amend 47  
C.F.R. §73.202(b), the Table of Allotments of FM Broadcast Stations, to  
reallot channel 224A from Avalon to Fountain Valley, California and channel  
224A from Riverside to Adelanto, California and a Notice of Proposed Rule  
Making issued in MM Docket No. 99-329.

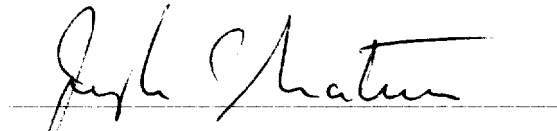
3. To facilitate implementation of Amaturio's proposal, JAMES L. KNUDSEN & DONNA KNUDSEN ("Knudsen"), the Licensee of Broadcast Station KZIQ-FM, Ridgecrest, California have agreed to the down-grade of the allotment on which station KZIQ-FM operates from channel 224B1 to channel 224A and to the relocation of the KZIQ-FM transmitter site.
4. Amaturio hereby commits, affirms and re-affirms, in accord with the **Notice of Proposed Rule Making** in MM Docket No. 99-329 (the "NPRM") 64 Fed. Reg. 68665 (December 8, 1999), that Amaturio Group of L.A., Ltd. will pay or reimburse the licensee of station KZIQ-FM for the costs incurred in changing the site for the transmitter of Station KZIQ-FM to effect Amaturio Group of L.A., Ltd.'s proposed changes as specified in the Petition for Rule Making (the "Petition") and as set forth in the NPRM. Again, Amaturio hereby fully commits to pay or reimburse Knudsen for all expenses contemplated by the NPRM.<sup>1</sup>
5. If the Commission issues an order granting the changes to the Table of Allotments, FM Broadcast Stations, sought by Amaturio, applications for construction permits to build facilities in accord with the amended table of allotments will be filed with the Commission, and if the permits are granted, the facilities will be constructed and operated.

---

<sup>1</sup>Since the change is from channel 224B1 to channel 224A, no change in frequency is involved. Amaturio's commitment to reimburse the licensee of KZIQ-FM for the costs incurred to facilitate the changes to the station to implement Amaturio's proposal is complete and includes all costs contemplated by the Commission's reimbursement policies, including frequency change costs.

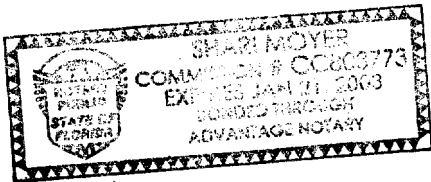
6. Amaturo commits to take all actions described in, or otherwise required or appropriate to implement the proposals of, the NPRM.
7. Amaturo believes, and again urges, that the public interest would be served by amendment of the Table of Allotments of FM Broadcast Stations as proposed, and respectfully urges that the Commission issue an Order amending the Table of Allotments as proposed by Amaturo.
8. Amaturo repeats, re-states and incorporates by reference its previous showings, commitments and arguments in support of its proposals.

Furthermore, Affiant sayeth not.



Signed, Affiant

**SWORN TO AND SUBSCRIBED**, before me the undersigned Notary Public  
in the County \_\_\_\_\_ of Broward \_\_\_\_\_, Florida on the  
above date.

  
**NOTARY PUBLIC**

C:\Wh&c\000103AmaturoA5R7aMEM.wpd